

JB Nicholas
The Free Lance News
jasonbnicholas@gmail.com

Aug. 22, 2023

Hon. Taryn A. Merkl
United States Magistrate Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

RE: PRESS MOTION TO INTERVENE AND FOR DISCLOSURE

Trooper 1 v. New York State Police, et al., No. 22-cv-00893
(LDH) (TAM); Cuomo v. Boylan, No. 23-mc-01587 (LDH) (TAM)

Good morning Magistrate Merkl:

I write in response to Plaintiff's Aug. 21 letter with attachment (ECF No. 129).

Preliminarily, the attachment should be stricken. Liss is not a party to this case. Her attorney, Rehkopf, has not filed a notice of appearance. Neither is he admitted to practice in the Eastern District, according to his profile on the website of the New York State Association of Criminal Defense Lawyers.

In brief, Plaintiff is trying to go through the back-door because the front door is locked. The Court should not countenance their illegal attempt to hack into the Court's docket. The submission is nothing less than unauthorized clutter. It should be summarily expunged.

If the Court believes Plaintiff's submission should be considered, I caution the Court it contains false information.

I do not have the text messages between Liss and Boylan.

Also, I only obtained a redacted copy of the deposition Liss gave in this case. A confidential source provided it to me.

Because the Court has been asked to effectively re-seal the Liss deposition, I would be affected by that decision since I have already reported on it and plan to report on it more in the future. Therefore, I have standing to intervene as of right under Fed.R.Civ.P. 24(a)(2) (a party may intervene as of right when s/he "claims an interest relating to the property or transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter impair or impede the movant's ability to protect its interest").

As to the substantive decision whether Liss's deposition should be effectively re-sealed, I point to Rehkopf's admission Defendants' decision to distribute it was a good-faith error at worst. It was not done in bad-faith. This is a factor, I respectfully submit, that favors letting what's been done be done. To do otherwise would create an entire new array of harms because of the censorship and First Amendment violations re-sealing would inflict.

Separately, the public has a substantial interest in release of not just Liss's deposition but the text messages between Liss and Boylan referred to in the deposition.

Boylan was Cuomo's first accuser and most outspoken antagonist. Boylan encouraged Liss to speak out. Liss was Cuomo's third accuser. Now Liss says Cuomo never sexually harassed her. New Yorkers deserve to know the extent of any collusion between these two because it caused, in part, a duly-elected governor to resign. If they didn't covertly conspire, the public deserves to know that too, and their texts would show that.

If the Court believes it would benefit from further briefing on this topic, I am available to deliver it if requested.

Finally, and most unfortunately, Trooper 1's attorney and Rehkopf mis-stated my credentials. Let me make the record clear.

I graduated NYU with honors in 2006. I started working as a journalist later that year. I was first credentialed by the NYPD as a journalist in 2007 and was credentialed through 2021 (when I left NYC and moved upstate). Attached is a photograph of my last NYPD-issued press credential. I was also officially credentialed by the Secret Service more than a dozen times. I was credentialed by the Secret Service to cover an

event at the White House in 2012 and, in fact, covered that event.

10 character reference letters are appended to [this brief](#), for your review. You may recognize some of the names. One or two are legends or near-legends in the New York legal community

I worked primarily as a photojournalist until 2015. I regularly worked, at different times, for the *New York Post*, the *New York Daily News* and the *Daily Mail*. I also independently syndicated my work globally through the international photo agency *Splash News*. My news photography has been published by hundreds of print, online and broadcast publications around the world, including *Paris Match*, *National Geographic*, *Vanity Fair*, *New York Magazine*, *New York Times Magazine* and many others.

I've had scores of photo exclusives—including [the only news photographs of the aftermath](#) of the Sandy Hook Elementary School killings in Connecticut. My photograph of master swindler Bernard Madoff was one of [the Guardian Weekend Magazine's "Ten Images of the Noughties."](#)

After winning a criminal justice reporting fellowship for John Jay University in 2015, I freelanced as an investigative reporter for the [Village Voice newspaper](#) and numerous online news blogs, including [Gothamist](#), the [Daily Beast](#) and [Oxygen.com](#). I covered crime, courts, cops and prisons but I also covered New York State Government. For example, my 2017 *Village Voice* report [criticized then-Gov. Cuomo's plan](#) to build "Glamping Grounds" in the State Forest Preserve.

While working for *WNYC/Gothamist*, my radio report for *WNYC* covering the arrest of Hollywood heavyweight Harvey Weinstein for rape was rebroadcast by *NPR* nationally.

I've successfully defended freedom of the press in court several times, defeating censorship by opponents as varied as the NYPD and Hollywood heavyweight [Steven Spielberg](#). My federal civil rights lawsuit against the NYPD [reformed the way New York City regulates official press credentials](#), mandating due process and other safeguards.

The National Press Photographers Association [awarded me a Special Citation](#) in 2021, "for his dedication and perseverance in protecting the rights of journalists." I also won the [Kathy Acker award](#) for avant garde excellence in 2022.

I started publishing *The Free Lance* in January 2023.

So far, *The Free Lance* has exclusively reported the early release from federal prison of an NYPD officer who committed one of the [most heinous acts](#) of police brutality in modern history; the secret history of the Adirondack Great Camp where Supreme Court justice [Clarence Thomas likes to spend summers](#); how journalists beat the NYPD to a video recording of NYPD officers [killing Eric Garner](#); how [Craig Newmark avoided #MeToo accountability](#) for pimping women on Craigslist; and the NYPD's move to [prevent the public](#) from monitoring its radio transmissions, among other news.

Now I'm digging into what's going on with the civil lawsuits against former-Gov. Cuomo. Cuomo's case was perfect for *The Free Lance* to dig into for the simple fact that no one else was. It also fit well within my subject matter expertise covering crime, courts, cops, civil rights lawsuits and assessing quasi-judicial proceedings for compliance with constitutional due process standards.

Once I started covering this case, there's been newsworthy developments one-after-another that my competitors continue to ignore. Must be because it's August and they're on vacation.

Very truly yours,

JB NICHOLAS

